

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**BECON MEDICAL, LTD. and
HENRY STEPHENSON BYRD, M.D.,
Plaintiff,**

v.

**SCOTT P. BARTLETT, M.D., and
TALEXMEDICAL, LLC,
Defendants.**

CIVIL ACTION

NO. 18-4169

ORDER

AND NOW, this 22nd day of August, 2019, upon consideration of Plaintiffs' Opening Claim Construction Brief (Document No. 37, filed May 3, 2019), Defendants' Claim Construction Response (Document No. 40, filed May 31, 2019), Plaintiffs' Reply Claim Construction Brief (Document No. 53, filed June 28, 2019), Defendants' Claim Construction Sur-Reply (Document No. 57, filed July 3, 2019), following a *Markman* Hearing on July 12, 2019, for the reasons stated in the accompanying Memorandum dated August 22, 2019, **IT IS ORDERED** that the disputed language of U.S. Patent No. 8,167,942 (the "'942 Patent") and U.S. Patent No. 8,852,277 (the "'277 Patent") shall be **CONSTRUED** as follows:

1. **"Opening,"** as used in the '277 Patent, means "a gap that accommodates the passage of the ear";
2. **"Scaphal mold,"** as used in the '942 Patent and the '277 Patent, means "mold at the end of the one or more braces that is positionable in the scaphal area";
3. **"Cradle,"** as used in the '277 Patent, means "the base section and the cover."

IT IS FURTHER ORDERED that the parties shall jointly report to the Court (letter to Chambers, Room 12613) with respect to settlement on or before September 12, 2019. In the event the case is not reported settled, counsel shall include in their joint report a statement as to

whether they believe further settlement conferencing before Magistrate Judge Thomas J. Rueter might be of assistance in resolving the case and, if so, by what date they will be prepared to begin such proceedings. In the event counsel do not agree on further settlement conferencing, they shall include in their joint report a proposed schedule for further proceedings.

BY THE COURT:

/s/ Hon. Jan E. DuBois

DuBOIS, JAN E., J.